COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

DELWYN GIBBONS, APPELLANT,	
	No. 41715-4-II
V.	
	STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
STATE OF WASHINGTON, RESPONDENT.	

Delwyn Gibbons, has received and reviewed the opening brief prepared by attorney. Summarized behind this page will be attached, 'BRIEF MEMORANDUM OF LAW IN SUPPORT OF STATEMENT OF ADDITIONAL GROUNDS'.

Appellant understands the Court will review this Statement of Additional Grounds for Review when his appeal is considered on the merits.

Appellant has 4 Additional Grounds. Please see attached SAG brief memorandum of law.

Date November 8th, 2011 Signature Delwyn Gibbons

No. 41715-4-II

IN THE COURT OF APPEALS FOR
DIVISION TWO
OF THE STATE OF WASHINGTON

BRIEF MEMORANDUM OF LAW IN SUPPORT OF STATEMENT OF ADDITIONAL GROUNDS PURSUANT TO RAP 10.10

DELWYN GIBBONS
APPELLANT/PRO SE

OPENING STATEMENT FOR SAG

All the issues that are stated in this Statement of Additional Grounds are brought forth under RAP 2.5 (3) for first time on appeal.

The appellant Delwyn Gibbons, humbly asks this Honorable Court to not hold him to the same standards as a lawyer, since he is acting pro se and has no legal training. And to please give these grounds liberal interpretation and hold them to less stringent standards than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 92 S.Ct 594, 30 L.Ed. 2d 652 (1972).

ADDITIONAL GROUND ONE

INSUFFICIENT EVIDENCE

When reviewing a challenge to the sufficiency of evidence, the court must determine, considering the evidence in the light most favorable to the prosecutor whether "any rational trier of facts could have found the essential elements of the crime beyond a reasonable doubt." State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980), Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed 2d 560 (1979).

Appellant contends that there was no sufficient evidence to convict on 2°assault for counts 2 & 3, and no sufficient evidence to convict on 4°assault in counts 5 & 7. Appellant also denies these allegation ever occurred.

Count 2 issue:

For count 2 (black tie strangulation allegation) there is no evidence to meet RCW 9A.36.021 (1), (a), (g). The state alleged that this count is based on the prong of: (g) assault another by strangulation.

Deputy Kevin Gandaire RP248 he stated that Cauthron was strangled 3 times within a period of 2 days. However, on RP389-397 his testimony on the issue of count

2 was shattered because Cauthron on direct examination stated that Gibbons did not strangled her.

RP389-391 regarding the black robe tie states, "he tied the neck and hands but did not tighten it nor did it cause any choking, he was just sitting at the edge of the bed." This does not meet the prong or statute of RCW 9A.36.021 (1), (g) because she was not strangled. 'Finding-2007 c.79': "The Legislature finds that assault by strangulation may result in immobilization of a victim, may cause a loss of consciousness, or even death..."

Appellant did not cause any of the Legislature's findings on strangulation, because victim stated that "did not tighten it nor did it cause any choking, he was just siting at the edge of the bed." RP389-391.

She further added that Gibbons was "funning around" RP391. On this analysis, no rational trier of facts could have found the essential elements of the 2°assault RCW 9A.36. 021 (1),(g) to meet the strangulation prong to be found beyond a reasonable doubt in this allege incident.

Count 3 issue:

For count 3 (arm strangulation allegation) there is no evidence to meet RCW 9A.36.021 (a) (g). The state alleged that this count is based on the prong of: (g) assaults another by strangulation.

On RP248, Deputy Kevin Grandaire stated that Cauthron was strangled 3 times within a period of 2 days. However, the following paragraphs will contradict his statement.

RP381, lines 14-19 Cauthron was asked about the allegation of the assault/strangle issue. She was asked if appellant "lifted her up in a chokehold?" The answer was to the effect that,"I don't know if you would call it a chokehold."

On RP382 states that appellant lifted her up by her shoulders & not the neck, "I believe very slighty." RP 382, lines 13-14 Q."okay, very slightly. Were you able to breathe while this was happening?" A."Yes."

Then RP382, lines 22-25 explains what appellant was doing; (not strangling) he was talking in her ear, "he usually does, on occasion, comes up behind me and hugs me from behind."

The report proceedings stated herein are the sole facts that the state mentions to prove this allegation. Apparently, the victim under oath testifies there was no strangulation to meet RCW 9A.36.021 (1), (a), (g) of strangling with the use of his arms on count three. It was not a choke; it was a "bear-hugged" as indicated in RP388.

Count 5 issue:

For count 5 (assault four on face) there is no evidence to meet RCW 9A.36.041, 4°assault. Basically this RCW is not clear on what consist for making it a 4°assault. It only alludes that a person is guilty of 4°assault if it does not amount to 1°,2°,3° assault; does not specify what an assault in the 4° is?.

However, for the sake of meeting State v. Green, & Jackson v. Virginia, supra; the evidence that the state presented does not even meet the bare minimum.

The only evidence that alludes to this issue is the testimony of Cauthron. In RP396-397 is the only place mentioned about if appellant "slapped" Cauthron on the face. The answer on RP397, line 2 states by Cauthorn: "No." This is all that pertains to the 4°assault (face); absolutely no evidence for 4°assault on Count 5.

Count 7 issue:

On count 7 (wheelchair allegation assault) the RP only alludes to it on RP358. The state infers that appellant threw Cauthron off the wheelchair on February in Arizona.

If the State uses this incident for 4°assault then this assault should be dismissed because Washington State has

no jurisdiction for crimes that might had occurred in Arizona (however, for this incident, Cauthron stated it did not happened, her answer was "No.").

The other inference about wheelchair/assault is stated on RP397. On this page the State asked if appellant ever threw Cauthron off the wheelchair. She said "he did not throw me". Then on line 14 of RP397 she emphasize, "No, its not a yes. He did not throw me from the chair."

All stated herein counts has met insufficiency of evidence for the criteria in regards to Jackson v. Virginia, supra.

RP416 Cauthron denies what Detective Shultz wrote as a statement at the hospital. It would have been professional if the detective would have read the report to Cauthron; or let her read it and finally have her signed the statement. This way it can be believed because it would show she confirmed it. In contrast on direct examination under oath, she denied ever saying she was choked, thrown, or slapped in regarding to counts 2,3, 5, & 7.

Cauthron should be believed because there is absolutely no evidence for counts 2,3, of 2°assault & 4°assault on

counts 5 and 7. The reason she is to be believed is because she denies counts 2,3,5, & 7 ever occurred, in contrast she admits the allegation for count 1.

For count 1 (red tie assault) she does admit that it occurred. RP379. To substantiate her claim that count 1 did happened, she gives details in RP379. Furthermore on RP404 she admits her neck was hurting, and that she had a rug burn mark on her neck.

Having to admit for count 1 on RP 379 & RP404 as she did; she would have admitted to the other counts if they actually occurred, because she was being truthful.

Because there is no evidence on the prong elements for RCW 9A.36.021 (g) for counts 2 & 3 and RCW 9A.36.041 (1); appellant meets the first step of Jackson v. Virginia.

The next step is if the court can draw all reasonble inferences from evidence in the prosecution's favor, and interpret the evidence most strongly against the defendant. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

The answer is no for finding reasonable inference from evidence in the prosecution's favor. The reasons are:

For counts 2,3,5,7, Deputy Kevin Grandaire did not have

Cauthron read & signed the statements to corroborate to its accuracy. Detective Shultz was derelict also in her report for not having Cauthron corroborate the accuracy of her report. The result was that she contradicted both detectives in their reports/statements, except for the count 1. This alludes that she was being truthful in her testimony and had no reason to be mendacious.

Since the only allege evidence that the state relied for counts 2,3,5, & 7 was a report/statement which got contradicted at trial; then there is nothing left to prove because all the state had for proof was a statement/ report.

Therefore the instructions to convict appellant were rendered useless to apply on appellant who faced his accuser and admitted that the allege crimes on counts 2,3,5,& 7 did not occur..

Because of what stated herein on interpreting the evidence against Gibbons, the appellant contends that an uncorroborated statement is not strong evidence against appellant.

Next is the court assumes the truth of the prosecution's evidence on all inferences that the trier of fact could

reasonably draw from it. State v. Wilson, 71 Wn.App. 880, 891, 863 P.2d 116 (1993), rev'd on other grounds, 125 Wn.2d 212, 883 P.2d 320 (1994).

Here the Court can apply the assumption of truth by what the prosecutor's state witness said as evidence, what the victim stated on the stand was true. It was not a statement she did not write, but a verbal declaration testimony under oath that counts 2,3,5,7 did not occur.

Lastly the Court defers to the trier of fact to resolve any conflicts in testimony, to weigh the pursuasiveness of evidence, and to asses the truth & credibility of the witness. State v. Boot, 89 Wn.App. 780, 791, 950 P.2d 964, review denied, 135 Wn.2d 1015 1998).

Here the State was aware that Cauthrone was stating what what she intended to state. Reason being is because the State interviewed her before trial. The State could have chosen to assess with Cauthron what occurred and what not occurred. But they did not, and thus Cauthron spoke the truth under oath on the stand of what actually occurred.

She had no motive to be mendacious because she gave detail account of the 2°assault of 'red tie' issue. She

further stated she had rug burns on her neck as stated herein on this issue. She could have said that the counts that appellant contends were actual events, but she did not; she said the count 1 was factual and the others were not. She presented her testimony to face her assailent on the account of count 1, and in addition set the record clear that the other counts did not occur. Her credibility as a witness is reliable.

Because of the merits on this Additional Ground One; appellant respectfully request that this Honorable Court dismiss counts 2,3,5, & 7 and remand for resentencing.

ADDITIONAL GROUND TWO

UNCONSTITUTIONALLY VAGUE STATUTE

The due process clause of the Fourteenth Amendment requires that citizens be afforded fair warning of proscribed conduct. State v. Sullivan, 143 Wn.2d 162, 181, 19 P.3d 1012 (2001)(qouting City of Seattle v. Montana, 129 Wn.2 583, 596, 919 P.2d 1218 (1996). The vagueness doctrine ensures that citizens receive notice as to what conduct the law proscribes and prevents the law from being arbitrarily enforced. Sullivan, 143 Wn.2d at 181 (quoting In re Contested Election of Schoessler, 140 Wn.2d 368, 388, 998 P.2d 818 (2000)).

RCW 9A.36.041 assault in the fourth degree (1), (2) violates the due process clause of the Fourteenth Amendment because its impossible to defend against this statute. It does not specify crimes or conduct that should be proscribed.

Appellant is accused on counts 5 & 7 of fourth degree assault. Count 5 is alleged that appellant assaulted Dawn by striking her on the face. Count 7 alleges that appellant grabbed Dawn from the wheelchair and threw her on the floor.

These two counts that describe the allegation are not define in the fourth degree assault statute. RCW 9A.36.041 fourth degree assault is described as follows:

Assault In The Fourth Degree:

(1) A person guilty of assault in the fourth degree assault if under circumstances not amounting to assault in the first, second, or third degree, or costudial assault, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor.

The above statute does not specify the allege conduct in counts 5 & 7; then the statute implies that the State can fill in the blank of any conduct as long as its not a first, second, third degree assault.

A statute is unconstitutionally vague if it fails to define an offense with sufficient definiteness so

that persons of ordinary intelligence can understand what conduct is proscribed or if it does not provide standards sufficiently specific so as to prevent arbitrary enforcement. State v. Eckblad, 152 Wn.2d 515, 98 P.3d 1184 (2004); Sullivan, 143 Wn.2d at 182.

To succeed, petitioner must show that the statute fails to (1) define the offense with sufficient definiteness that ordinary people can understand what conduct is prohibited, or (2) establish standards to permit police to enforce the law in a non-arbitrary, nondiscriminating manner. State v. Groom, 133 Wn.2d at 691 (citing Thorne, 129 Wn.2d at 770; City of Spokane v. Douglass, 115 Wn. 2d 171 P.2d 693 (1990)).

Analysis:
1) Statute fails to define the offense with sufficient definiteness that ordinary people can understand what conduct is prohibited:
The RCW 9A.36.041 states: Assault in 4° degree is guilty of assault in the fourth degree, under circumstances not amounting to assault in the first, second, third, or custodial assault, he or she assaults another and (2) Assault in the 4° is a gross misdemeanor.

For this first analysis petitioner points out that Washington Legislature has not defined assault to make

it a crime. Therefore petitioner will use the RCW 9A. 36.041 only to meet the first analysis. For first analysis the RCW 9A.36.041 implies anything can be an assault as long as its not in the degree of first, second, & third. This is way to vague and meets the first standard of the analysis because it does not define sufficient definiteness of a prohibited conduct. By implying in RCW 9A.36.041 that anything can be an assault in the fourth degree as long as its not 1°,2°,3°, it makes ordinary people to speculate what makes a fourth degree assault (is it pushing, elbow someone, cause someone to trip & fall). As stated in example in parathesses, there all inappropriate conduct; but do they amount to assault four because they are not amounting to 1°, 2°, 3°?

The first analysis on this issue is met because assault four does not define sufficient information what conduct is prohibited.

The second analysis:
2) The statute fails to establish standards to permit police to enforce the law in a non-arbitrary manner.

Due Process forbids criminal statutes that contain no standards and allow police officers, judges, and jury to subjectively decide what conduct the statutes pro-

scribes or what conduct will comply with a statute in any given case. State v. Williams, 144 Wash.2d 197, 26 P.3d 890 (Wash. 06/28/2001).

Here in appellant's case, the prosecutor arbitrarily charge a conduct that is not defined in assault four. The judge arbitrarily instructed the jury to convict in an undefined conduct. Thus, the jury convicted appellant on the undefined conduct that was considered as a fourth degree assault.

Appellant meets both analysis for this Additional Ground Two of Unconstitutionally Vague issue. For these reasons stated herein, appellant respectfully request that both fourth degree counts be dismissed.

ADDITIONAL GROUND THREE

ILLEGAL ENTRY & UNLAWFUL ARREST

The U.S Constitution, Fourth Amendment provides: 'The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon Probable Cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

What occurred in this cause was an illegal entry & un-

lawful arrest. Appellant heard banging on the door that was at the kitchen entrance. As appellant proceeded to check to who was doing the banging; he saw through the window that it was the police. He went to see why they were banging on the door. But before appellant opened the door, deputy Kevin Gadaire was yelling, "open the fucking door, or we are busting the door open, we are getting permission by the landlord!" In RP 165, deputy Gadaire admits that he was banging the door, demanding entry & that he would force entry. RP 227 alludes by Gadaire, "knocked extremely hard."

When appellant was opening the door, officer Gadaire pushed himself inside appellant's home. Appellant (henceforth as Gibbons) stated, "what do you want?" the deputy responded that he wanted to speak to Dawn. Gibbons responded that he would go get her. Deputy Gadaire said, 'no, you lost that right because you did not answer the door or your phone." RP 227 Gadaire called Gibbons's residence. As Gadaire went to see Dawn, Gibbons was made to be seated in the living room while Gadaire was in the bedroom interviewing Dawn. RP 165, Gadaire states that Gibbons asked him, "why are you here?" , also on RP 228 the answer to Gibbons's question by Gadaire is that he was there for a welfare check.

Later, Gibbons was made aware that he is being arrested for some assaults that allegedly occurred and for an arrest warrant from Arizona.

There was no search warrant to merit the officer to barge in Gibbons's residence. Court Clerk's Papers do not indicate such search warrant. The officer did not submit either proof to arrest Gibbons on some assaults nor did they provide the arrest warrant from Arizona. The clerk papers did not indicate such proceeding. There is only a probable cause filing after the arrest. Ex A (The probable cause that was made after arrest).

Appellant contends that whatever Dawn stated during when the officers unlawfully entered his house, she was saying anything under duress because she was afraid of losing her new born child by CPS. However, once she had the child returned, she has persistently has made numerous attempts to correct the errors that the deputies caused. See Ex B & C.

Exhibit B states what actually occurred in this cause. Exhibit C, is an attempt to have the no contact order removed from Gibbons.

Because there was no proof of a warrant to merit an entry in Gibbons's house; the deputy violated Gibbons's IV amendment rights.

Amendment IV states in order for government officials to enter a home & seize property; they have to have probable cause. & supported by Oath affirmation. This was not in this cause. There was no warrant to justify their entry in accordance with this said amendment.

Amendment IV also applies to unlawful arrest because there was no probable cause under Oath to describe the person seized.

All evidence obtained in this cause should be inadmissible because of it's false pretense of accusing Gibbons of having a arrest warrant and for illegal entry. All this stems from the initial start of original illegality. Wong Sun v. United States, 371, U.S. 471.

Freedom from intrusion was violated because no warrant or probable cause under Oath for entry and arrest was presented. Payton v. New York, 455, U.S. 573, 590, 100 S.Ct 1371, 63 L.Ed. 2d 639 (1980).

Because of these violations, appellant respectfully request that this Additional Ground Three be granted and have the conviction vacated and charges dismiss.

ADDITIONAL GROUND FOUR

INEFFECTIVE ASSISTANCE OF COUNSEL

The Washington and United States Constitutions guarantee a defendant the right to effective assistance of counsel. Wash. Const. art. 1 § 22; U.S. Const. amend. 14, § 1. The test for ineffective assistance of counsel has two parts. One, it must be shown that the defense counsel's conduct was deficient, i.e., that it fell below an objective standard of reasonableness. Two, it must be shown that such conduct prejudice the defendant, i.e., that there is a reasonable possibility that, but for the deficient conduct, the outcome of the proceeding would have been different. State v. Thomas, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987) (adopting test from Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed 2d 674 (1984).

In reviewing this type of challenge, this court presumes that the assistance was effective. State v. Sardinia, 42 Wn.App. 533, 539, 713 P.2d 122, review denied, 105 Wn.2d 1013 (1986). Generally, a court will not consider those matters it regards as tactical decisions or matters of trial strategy. State v. Carter, 56 Wn.App. 217, 224, 783 P.2d 589 (1989). 'If counsel's trial conduct can be characterized as legitimate trial strategy or tactics, then it cannot serve as a basis for a claim that defendant did not receive effective assistance of counsel.' State v. Mak, 105 Wn.2d 692, 731, 718 P.2d 407, cert. denied,

479 U.S. 995 (1986); State v. Adams, 91 Wn.2d 86, 90-91, 586 P. 118 (1978); State v. White, 81 Wn. 223, 225, 500 P.2d 1242 (1972); see also State v. McFarland, 127 Wn.2d 372, 336, 899 P.2d 1251 (1995) ('Because the presumtion runs in favor of effective representation, the defendant must show in the record the absence of legitimate strategic or tactical reasons supporting the challenged conduct by counsel.').

Appellant has two issues on this Ground of ineffective assistance of counsel. The first issue is the following:

A. Fail To Call Witnesses/Submit Exculpatory Evidence

Petitioner meets both prongs of Strickland on this issue for the following reasons:

Performance was deficient:

Petitioner faced the charge of unlawful imprisonment and was convicted of this charge.

Gibbons wanted to call a witness or witnesses who his attorney should have urgently called. The witnesses would have been able to attest to the fact that the unlawful imprisonment was not true.

The witnesses are Gibbons' neighbors who live in a commune house where Gibbons lives. These neighbors had communication with Dawn during the allege three days of unlawfully being restraint.

This would have been exculpatory testimony for this charge of unlawful imprisonment. The neighbors would have testified that they share the utilitie room (washer & dryer) with Dawn and converse with her during the three day allegation of being unlawfully restraint. At times when they saw Dawn during these three days of being restraint, Gibbons was not at home. This could have raised reasonable doubt that Dawn was not restraint and had liberty to move where ever she pleased.

Furthermore, there was evidence that corroborates with Dawn having liberty to move but attorney did not want to submit the evidence. The evidence is that Gibbons obtained evidence from a Walgreens' video recording that shows Dawn shopping, & a video at a cash machine that shows Dawn retrieving money. These two occasions were during the days of the allege unlawful imprisonment.

Performance was prejudicial:

Failure to call witnesses amounts to ineffective assistance only if that failure was unreasonable and resulted in prejudice, or created a reasonable probability that, had the lawyer called the witness, the outcome of trial would have been different. State v. Sherwood, 71 Wn.App. 481, 484, 860 P.2d 407 (1993).

Because the record is absent as to why counsel did not call any witnesses that would have benefited Gibbons; the performance rendered prejudice. There was no tactical

strategy on not calling witnesses.

If counsel would have called neighbors they would have testified that they and Dawn were having communication; & if the exculpatory evidence been admitted the evidence would have shown Dawn was shopping during the three day allegation of unlawful imprisonment. This would at the least raise reasonable doubt. Absent the witnesses & the exculpatory evidence - prejudiced germinated an caused Gibbons to be found guilty of unlawful imprisonment.

B. Failure To Impeach

This is the second issue of this Ground. This case started because of the state's witness Lecia Massey. She initially called the authorities from Canada and stated that Gibbons was holding her sister against her will and that he was threatening to take the baby. RP 476.

The defense counsel had evidence or could have used evidence from a deposition interview & 911 call from Canada to discredit Massey in the allegations of: breaking the leg of Dawn at Arizona, being a child molester, assault arrest warrant from Arizona, holding Dawn against her will (all were proven false with the exception of the unlawful imprisonment.).

Attorney did not perform effectively because he did not use this evidence to impeach Massey. She went unchallenged by counsel without any reasonable strategy.

Also, none of the hearsay testimony was challenged by counsel. RP 479, 491-483, 473 lines 12-15 & RP 474 lines 1-7.

Massey kept rambling on without being stopped to the point where she herself stated "please try to stop me" RP 463, (she said this because she talked uncontrollably). This caused confusion in the court to the jury. This could have been interpreted as a concern sister by the jury if not challenged.

The unchallenged confrontation to discredit Massey was the evidence that occured after Dawn completed her testimony. Massey abandoned Dawn in the cold outside the courthouse on a wheelchair with a new born child. The defense & the state prosecutor had to find a place for her to take shelter until Dawn was able to return to Spokane. RP 963.

This fact should have been used to discredit Massey's testimony of her being a concerned sister.

The prejudice performance caused Gibbons to be found guilty. If counsel would have put effort in challenging Massey, objecting to her hearsay, and enlightening the jury about Massey abandoning Dawn; reasonable doubt would have caused the jury to render a different verdict on all counts.

Because of the ineffective assistance that was performed in this cause, appellant Gibbons respectfully request that he be granted a new trial.

DECLARATION OF SERVICE BY MAIL
GR 3.1(c)

I, Delwyn Gibbons, pro se, declare that, on this 08 day of November, 2011 I deposited the forgoing documents:

Statement of Additional Grounds For Review -
with a Brief Memorandum of Law

or a copy thereof, in the internal legal mail system of :

Clallam Bay Corrections Center legal mail system.

And made arrangements for postage, addressed to: (name & address of court or other party.)

Court Clerk	Anne Maury Cruser	Lisa E. Tabbut
Court of Appeals	Clark County Prosecutor's off.	Attorney for Appellant
Division Two	1013 Franklin St.	Attorney at Law
950 Broadway #300	P.O Box 5000	P.O. Box 1396
Tacoma, Wa. 98402	Vancouver, Wa. 98666	Longview, Wa. 98632

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated at Clallam Bay, Washington (City & State) on November 08, 2011 (Date)

Delwyn Gibbons
Signature

Delwyn Gibbons
Type / Print Name

Exhibit A

RECEIVED
APR 2 9 2010
Clark County
Clerk's Office

Clark County Custody Pre-Book/Probable Cause Sheet

(Please Attach Pink Sheet)

10-1-00681-8

Defendant's Name (Last, First, Middle) Gibbons, Detwyn James

DOB: 3-6-56 Sex: M Race: W Hair: Bro Eyes: Bro Ht: 6'03" Wt: 195

Address: 13907A NE Salmon Creek Ave City: Vancouver St. WA Zip: 98686

Phone: _____ Place of Birth: Bellingham, WA SS#: 533-64-4644

Arresting Agency: CCSO Officer & PSN: Hackett 3805 Transport Officer/PSN: Hackett #3805

Date & Time of Arrest: 4-28-2010 1830 Police Rpt. No: S10-6145

Incident Location (Address, City, State): 13907 NE Salmon Creek Ave #A Vancouver, WA

Arrest Location (Address, City, State): 13907 NE Salmon Creek Ave #A Vancouver, WA

AKA/Alias/Maiden Name

Name: _____ DOB: _____

Scars/Marks/Location

Type: _____ Location: _____ Description: _____

Type: _____ Location: _____ Description: _____

Intake/Triage Questions

		Yes	No
1.	Does the arrestee have any observable medical problems?		X
2.	Does the arrestee have any observable mental health problems?		X
3.	Does the arrestee show any signs of suicidal behavior or attempts?		X
4.	Has the arrestee shown any escape potential or violence propensity behaviors?		
5.	Does the transporting officer have any other information which we need to know concerning this matter?		

Comments: PANCREATIC CANCER - NO MEDICATION TAKEN
SISTER ADVISED OF POSSIBLE SUICIDAL THOUGHTS.

Charges (Circle if there is a WARRANT or CITATION number and include the bail amount)

Charge(s)	Citation/Warrant#	RCW	LEA	Counts	Bail Amount
Assault 3rd Degree-DV		9A.36.031	1	3	NO

Domestic Violence

Victim	Date of Birth	Relationship to Defendant
COUTHRON, DAWN L	8-14-74	LIVE-IN-GIRLFRIEND

Rev: 08/01/05 PA Forms Committee MUST authorize any change to this form Copies: White – PA Yellow – C.B.C. Pink – Arresting Officer

ARRESTING OFFICER'S DECLARATION OF PROBABLE CAUSE

The undersigned law enforcement officer states that the person whose name appears on this Pre-book/Probable Cause sheet was arrested without a warrant on the date and time shown thereon for the crimes committed in Clark County, Washington based on the following circumstances. The Pre-Book for this sheet is hereby incorporated by evidence.

My information is derived from:

S1: Gibbons, Delwyn

V1: Dawn L Couthrom

Investigation Summary:

Detective Kevin Gadaire told me that Delwyn had picked Dawn up out of her wheelchair and thrown her to the floor causing injuries to her lip and face. He also stated Dawn told him that over the course of the last two days Delwyn had strangled Dawn three different times with a bathrobe tie and that during each of these instances Dawn had lost consciousness.

Detective Lindsay Schultz attempted to speak to Dawn as she was being treated at Legacy Salmon Creek Hospital. Deputy Schultz told me that she observed bruising to Dawn's right shoulder, a circular bruise on Dawn's left bicep consistent with a thumb, and new and old bruising on Dawn's shoulders and back. Deputy Schultz also told me that she observed a fresh scrape above Dawn's left ankle

Deputy Schultz told me that she was unable to observe any injuries to Dawn's neck because this area was covered with a brace.

Dawn was unable to clearly communicate with Deputy Schultz due to her injuries.

The full extent of Dawn's injuries are unknown at this time.

Detective Harper requested a Criminal History search through Clark County Sheriff's Office Records, and was informed that there is an active arrest warrant for Fail To Appear for Arraignment for Aggravated Assault and Child Abuse, issued April 9, 2010, from Arizona. This warrant is not extraditable from Washington. The Criminal History check revealed a prior conviction for Domestic Violence Assault on 7/20/1999, in Maricopa County, Arizona.

Detective Harper told me that he also spoke with Fawn Couthrom, twin sister of Dawn Couthrom. Fawn told Detective Harper that in February of this year while Dawn and Delwyn were living in Arizona, Delwyn assaulted Dawn and broke her hip. Immediately

after that, Delwyn took Dawn from the state and moved her to Vancouver. Fawn has not been able to talk with Dawn since

The undersigned declares and certifies under penalty of perjury under the laws of the State of Washington that the preceding statement is true and correct to the best of his knowledge.

Signed this 28th Day of April 2010, iin Vancouver, Clark County, Washington.

Signature _____ **PSN** 3441

The undersigned Judge/Magistrate/Commissioner hereby certifies that I have read or had read to me the above statement of probable cause to arrest and that I find probable cause to arrest is ✓ established ____not established (release defendant).

Signed this 27 day of April, 2010 in Vancouver, Clark County, Washington

_____ **Time:** 9:15 **am/~~pm~~**

Exhibit A

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APR 2 9 2010
Clark County
Clerk's Office

Clark County Custody Pre-Book/Probable Cause Sheet

(Please Attach Pink Sheet)

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AKA/Alias/Maiden Name

Name: _____ DOB: _____

Scars/Marks/Location

Type: _____ Location: _____ Description: _____

Type: _____ Location: _____ Description: _____

	Intake/Triage Questions	Yes	No
1.	Does the arrestee have any observable medical problems?		X
2.	Does the arrestee have any observable mental health problems?		X
3.	Does the arrestee show any signs of suicidal behavior or attempts?		X
4.	Has the arrestee shown any escape potential or violence propensity behaviors?		
5.	Does the transporting officer have any other information which we need to know concerning this matter?		

Comments: PANCREATIC CANCER - NO MEDICATION TAKEN
SISTER ~~ADVISED~~ ADVISED OF POSSIBLE SUICIDAL THOUGHTS.

Charges (Circle if there is a WARRANT or CITATION number and include the bail amount)

Charge(s)	Citation/Warrant#	RCW	LEA	Counts	Bail Amount
Assault 3rd Degree-DV		9A.36.031	1	3	∅

Domestic Violence

Victim	Date of Birth	Relationship to Defendant
COUTHROM, DAWN L	8-14-74	LIVE-IN-GIRLFRIEND

Rev: 08/01/05 PA Forms Committee MUST authorize any change to this form Copies: White – PA Yellow – C.B.C. Pink – Arresting Officer

ARRESTING OFFICER'S DECLARATION OF PROBABLE CAUSE

The undersigned law enforcement officer states that the person whose name appears on this Pre-book/Probable Cause sheet was arrested without a warrant on the date and time shown thereon for the crimes committed in Clark County, Washington based on the following circumstances. The Pre-Book for this sheet is hereby incorporated by evidence.

My information is derived from:

S1: Gibbons, Delwyn

V1: Dawn L Couthrom

Investigation Summary:

Detective Kevin Gadaire told me that Delwyn had picked Dawn up out of her wheelchair and thrown her to the floor causing injuries to her lip and face. He also stated Dawn told him that over the course of the last two days Delwyn had strangled Dawn three different times with a bathrobe tie and that during each of these instances Dawn had lost consciousness.

Detective Lindsay Schultz attempted to speak to Dawn as she was being treated at Legacy Salmon Creek Hospital. Deputy Schultz told me that she observed bruising to Dawn's right shoulder, a circular bruise on Dawn's left bicep consistent with a thumb, and new and old bruising on Dawn's shoulders and back. Deputy Schultz also told me that she observed a fresh scrape above Dawn's left ankle

Deputy Schultz told me that she was unable to observe any injuries to Dawn's neck because this area was covered with a brace.

Dawn was unable to clearly communicate with Deputy Schultz due to her injuries.

The full extent of Dawn's injuries are unknown at this time.

Detective Harper requested a Criminal History search through Clark County Sheriff's Office Records, and was informed that there is an active arrest warrant for Fail To Appear for Arraignment for Aggravated Assault and Child Abuse, issued April 9, 2010, from Arizona. This warrant is not extraditable from Washington. The Criminal History check revealed a prior conviction for Domestic Violence Assault on 7/20/1999, in Maricopa County, Arizona.

Detective Harper told me that he also spoke with Fawn Couthrom, twin sister of Dawn Couthrom. Fawn told Detective Harper that in February of this year while Dawn and Delwyn were living in Arizona, Delwyn assaulted Dawn and broke her hip. Immediately

after that, Delwyn took Dawn from the state and moved her to Vancouver. Fawn has not been able to talk with Dawn since

The undersigned declares and certifies under penalty of perjury under the laws of the State of Washington that the preceding statement is true and correct to the best of his knowledge.

Signed this 28th Day of April 2010, iin Vancouver, Clark County, Washington.

Signature _____ 3441 PSN

The undersigned Judge/Magistrate/Commissioner hereby certifies that I have read or had read to me the above statement of probable cause to arrest and that I find probable cause to arrest is ✓ established ____not established (release defendant).

Signed this 27 day of April, 2010 in Vancouver, Clark County, Washington

_____ Time: 9:15 (am)/~~pm~~